

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DOUGLAS ROY SYMMES, JR.,)
)
 Plaintiff,)
)
 v.) 1:20CV887
)
CAPT. COVINGTON, et al.,)
)
 Defendant(s).)

ORDER

This matter is before this court for review of the Recommendation filed on September 13, 2021, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 4.) In the Recommendation, the Magistrate Judge recommends that this action be dismissed without prejudice to Plaintiff filing a new complaint, on the proper § 1983 forms. The Recommendation was served on the parties to this action on September 13, 2021. (Doc. 5.) Plaintiff filed a document entitled "Appeal," (Doc. 6), which the Clerk's Office has treated as a Notice of Appeal to the Fourth Circuit. (See Docs. 7-9.) It is not clear whether the document was intended a notice of appeal or objections to the Recommendation. Out of an abundance of caution, the court construes Plaintiff's "Appeal" as an objection to the Recommendation.

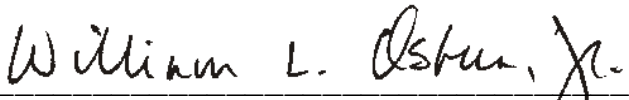
This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objections were made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation, (Doc. 4), is **ADOPTED. IT IS FURTHER ORDERED** that this action is dismissed without prejudice to Plaintiff filing a new complaint, on the proper § 1983 forms, correcting the defects set out in the Order and Recommendation.

A Judgment dismissing this action will be entered contemporaneously with this Order.

This the 17th day of December, 2021.



United States District Judge